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**CALLERO
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CERTIFIED PUBLIC ACCOUNTANTS
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7800 N. MILWAUKEE AVENUE
NILES, ILLINOIS 60714
(847) 966-2040
FAX: (847) 966-2179

August 16, 2010

Mr. Richard Karl, Director
Ms. Carol Ropski
U.S. EPA – Region 5
Enforcement Services Section #1
77 W. Jackson Boulevard, SE-5J
Chicago, IL 60604-3590

Dear Mr. Karl and Ms. Ropski:

I received your original correspondence of 8/5/10 and answered within three (3) business days, 8/10/10.

You have now sent a second correspondence dated 8/10/10, received 8/13/10.

Please answer my original letter. I feel I am not responsible as a former representative of a decedent's estate and trust.

Please also note that I reserve my right to a conference because you have not answered my previous request.

Very truly yours,

Robert M. Callero

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RMC:kj
enclosure

Received

AUG 17 2010

Emergency Enforcement
Services Section



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 05 2010

REPLY TO THE ATTENTION OF
SE-5J

Kenneth L. Johnston Trust
c/o: Mr. Bob Callero
7800 N. Milwaukee
Niles, Illinois 60714

**RE: Bautsch-Gray Mine Site, Site ID # B5TS
General Notice of Potential Liability**

Dear Mr. Callero:

The United States Environmental Protection Agency (EPA) has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the above-referenced Site, and is planning to spend public funds to control and investigate these releases. This action will be taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 *et seq.* (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) (SARA), unless EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the Site, and persons who generated the hazardous substances or were involved in the transport, treatment, or disposal of the hazardous substances at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), where EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning, and enforcement costs.

EPA is currently planning to conduct the following actions at the above-referenced Site:

1. Develop and implement a Site Health and Safety Plan;
2. Develop and implement a Site Security Plan;
3. Develop and implement a Quality Assurance Project Plan (QAPP) for removal sampling activities;
4. Conduct perimeter air monitoring / sampling for lead and arsenic during on-site work activities to protect workers and nearby populations;
5. Collect and analyze additional soil and water samples as necessary to determine the extent of off-site contamination;

6. Excavate and remove the contaminated soil and mine tailings with lead concentrations greater than 400 parts per million (ppm) and/or with arsenic concentrations greater than 25 ppm, but not to exceed 2 feet in depth on the affected residential property at 746 S. Blackjack Road. Contaminated soil and tailings would be moved back to the main tailings pile on the Site;
7. Excavate and remove the contaminated soil and mine tailings with lead concentrations greater than 400 ppm and/or with arsenic concentrations greater than 25 ppm in road ditch areas along Blackjack Road north of the Site to Smallpox Creek, and south of the Site in the vicinity of 798 S. Blackjack Road. Contaminated soil and tailings would be moved back to the main tailings pile on the Site;
8. The main tailings pile area on the Site will be graded and contoured to ensure proper storm water retention and drainage, and drainage culvert pipes will be added, enlarged, or repaired, as necessary;
9. With the property owner's permission, take appropriate remediation measures to reduce or eliminate the migration of contaminated mine tailings onto and from the "horseshoe shaped" tailings deposition area at 798 S. Blackjack Road. Stormwater must be managed to reduce or eliminate contact, to the extent possible, with the contaminated tailings. Options include excavation and removal the contaminated soil and mine tailings with lead concentrations greater than 400 parts per million (ppm) and/or with arsenic concentrations greater than 25 ppm in the horseshoe-shaped tailings deposition area at 798 S. Blackjack Road. Contaminated soil and tailings would be moved back to the main tailings pile on the Site. This task shall be conducted as part of this time-critical removal action, but may be performed after stabilization of the tailings pile in the principal Site area is completed;
10. Develop and implement a post removal sampling plan to confirm that cleanup levels have been met; and
11. Backfill excavated residential areas with clean fill and restore to elevations and landscaping equivalent to pre-removal conditions. The horseshoe-shaped tailings deposition area at 798 S. Blackjack Road will need to be properly contoured but may not need to be backfilled with clean soil.

EPA has received information that the Kenneth L. Johnston Trust may have owned or operated the Site or generated or transported hazardous substances that were disposed of at the Site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to agree to reimburse EPA for costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the Site. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response

activities and reimburse EPA for its costs. If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order. If the Kenneth L. Johnston Trust is a qualified small business, enclosed is an U.S. EPA Small Business Regulatory Enforcement Fairness Act information sheet, which may be helpful if you are subject to an EPA enforcement action.

Because of the conditions described above, EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify EPA in writing within three (3) days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse EPA for its costs. Your response should be sent to:

Carol Ropski
U.S. EPA - Region 5
Enforcement Services Section #1
77 West Jackson Boulevard, SE-5J
Chicago, IL 60604-3590

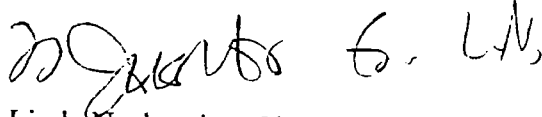
If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action, or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

If you need further information regarding this letter, you may contact Tom Turner of the EPA Office of Regional Counsel at (312) 886-6613.

Due to the nature of the problem at this facility and the attendant legal ramifications, EPA strongly encourages you to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Nachowicz", followed by the initials "E. LN" to the right.

Linda Nachowicz, Chief
Emergency Response Branch #2

Enclosure

BAUTSCH-GRAY MINE SITE
LIST OF PRPs PREVIOUSLY SENT GENERAL NOTICE LETTERS

West Galena Development, Inc.
Chains & Links, Inc.
Vincent A. Varsek Trust

c/o: Law Offices of Carey S. Rosemarin, P.C.
500 Skokie Boulevard, Suite 510
Northbrook, IL 60062

Louis Timp
Louie's Trenching Service
9720 W US Highway 20
Galena, IL 61036